

Message Text

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ACTION SCI-06

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3523

INFO AEC GERMANTOWN

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E. O. 11652: N/A

TAGS: PARM, IAEA, US

SUBJECT: REDRAFT OF PROPOSED US-IAEA SAFEGUARDS AGREEMENT

REF: (A) STATE 187563; (B) IAEA VIENNA 8187

1. IN REDRAFTING SUBJECT AGREEMENT, MISSION ATTEMPTING TAKE INTO ACCOUNT COMMENTS AND SUGGESTIONS PROVIDED INFORMALLY BY MAHY AND SLAWSON, AEC, AND VAN DOREN, ACDA, AS WELL AS REFTEL A AND AGENCY'S "CRITICAL REVIEW."

2. SINCE FIRST SEVERAL ARTICLES OF AGREEMENT DRAFT OF 11/2/72 PROVOKED MOST SERIOUS COMMENTS BY AGENCY AND OTHERS, MISSION HAS DEVOTED CONSIDERABLE EFFORT TO REFORMULATION THOSE ARTICLES (AND RELATED PORTIONS OF PREAMBLE), TAKING FULLY INTO ACCOUNT PRINCIPLES LISTED PARA 3 REFTEL A. AT SAME TIME, MISSION BELIEVES PROPOSED REFORMULATION WOULD FACILITATE MOVING MANY OF OTHER "NON-STANDARD" PROVISIONS TO PROTOCOL. FOR EXAMPLE, ARTICLE 1.C OF 11/2/72 DRAFT, WHILE DELETED FROM PROPOSED REDRAFT, WOULD APPEAR IN PROTOCOL. OTHER PROVISIONS, SUCH AS ARTICLE 1.B OF 11/2/72 DRAFT, COULD BE DEALT WITH IN LATER PROVISIONS OF AGREEMENT PROPER.

3. DEPT, AEC AND ACDA MAY FIND IT USEFUL, BEFORE MISSION COMPLETES ENTIRE SUBSTANTIAL REDRAFTING OF LATER PROVISIONS AND PROTOCOL, TO LIMITED OFFICIAL USE

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HAVE IN HAND MISSION'S PROPOSED REFORMULATION OF PREAMBLE AND FIRST

THREE ARTICLES OF AGREEMENT.

4. RE PREAMBLE, FIRST TWO PARAS AND PARA 5 REMAIN UNCHANGED. THIRD AND FOURTH PARAS WOULD READ AS FOLLOWS: QUOTE. WHEREAS NON-NUCLEAR-WEAPON STATES PARTIES TO THE TREATY UNDERTAKE TO ACCEPT SAFEGUARDS, AS SET FORTH IN AN AGREEMENT TO BE NEGOTIATED AND CONCLUDED WITH THE AGENCY, ON ALL SOURCE OR SPECIAL FISSIONABLE MATERIAL IN ALL THEIR PEACEFUL NUCLEAR ACTIVITIES FOR THE EXCLUSIVE PURPOSE OF VERIFICATION OF THE FULFILLMENT OF THEIR OBLIGATIONS UNDER THE TREATY WITH A VIEW TO PREVENTING DIVERSION OF NUCLEAR ENERGY FROM PEACEFUL USES TO NUCLEAR WEAPONS OR OTHER NUCLEAR EXPLOSIVE DEVICES;

WHEREAS THE UNITED STATES, A NUCLEAR WEAPON STATE AS DEFINED BY THE TREATY, HAS INDICATED THAT AT SUCH TIME AS SAFEGUARDS ARE BEING GENERALLY APPLIED IN ACCORDANCE WITH PARAGRAPH 1 OF ARTICLE III OF THE TREATY, THE UNITED STATES WILL PERMIT THE AGENCY TO APPLY ITS SAFEGUARDS TO ALL NUCLEAR ACTIVITIES IN THE UNITED STATES --

EXCLUDING

ONLY THOSE WITH DIRECT NATIONAL SECURITY SIGNIFICANCE -- BY

CONCLUDING

A SAFEGUARDS AGREEMENT WITH THE AGENCY FOR THAT PURPOSE; UNQUOTE.

WHEREAS THE PURPOSE OF A SAFEGUARDS AGREEMENT GIVING EFFECT TO THIS OFFER BY THE UNITED STATES WOULD THUS DIFFER NECESSARILY FROM THE PURPOSES OF OTHER SAFEGUARDS AGREEMENTS WITH THE AGENCY, PARTICULARLY THOSE AGREEMENTS CONCLUDED BY NON-NUCLEAR-WEAPON STATES PARTY TO THE TREATY; AND

WHEREAS IT IS IN THE INTEREST OF MEMBERS OF THE AGENCY THAT THE EXPENDITURE OF THE AGENCY'S FINANCIAL AND OTHER RESOURCES FOR IMPLEMENTATION OF SUCH AN AGREEMENT NOT EXCEED THAT FOUND TO BE NECESSARY TO ACCOMPLISH THE PURPOSE OF THE AGREEMENT WHILE, AT THE SAME TIME, MAINTAINING THE PRINCIPLES AND INTEGRITY OF THE AGENCY'S SAFEGUARDS SYSTEM; UNQUOTE.

5. REVISED ARTICLES 1, 2, AND 3 WOULD READ AS FOLLOWS: QUOTE

ARTICLE 1

A. THE UNITED STATES UNDERTAKES TO PERMIT THE AGENCY TO APPLY SAFEGUARDS, IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, ON ALL SOURCE OR SPECIAL FISSIONABLE MATERIAL IN ANY OR ALL FACILITIES WITHIN THE UNITED STATES, EXCLUDING ONLY THOSE FACILITIES ASSOCIATED WITH ACTIVITIES WITH DIRECT NATIONAL SECURITY SIGNIFICANCE TO THE UNITED LIMITED OFFICIAL USE

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STATES.

B. THE UNITED STATES SHALL PROVIDE THE AGENCY WITH A LIST OF ALL FACILITIES WITHIN THE UNITED STATES NOT ASSOCIATED WITH ACTIVITIES WITH DIRECT NATIONAL SECURITY SIGNIFICANCE. THE UNITED STATES AND SHALL, FROM TIME TO TIME, ADD OR REMOVE FACILITIES TO OR FROM THE LIST AS IT DEEMS APPROPRIATE.

ARTICLE 2

A. THE AGENCY SHALL HAVE THE RIGHT TO APPLY SAFEGUARDS, IN

ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, ON ALL SOURCE AND SPECIAL FISSIONABLE MATERIAL IN ANY OR ALL FACILITIES LISTED BY THE UNITED STATES IN ACCORDANCE WITH ARTICLE 1 B.

B. THE AGENCY SHALL, FROM TIME TO TIME, IDENTIFY TO THE UNITED STATES THOSE FACILITIES, SELECTED FROM THE THEN CURRENT LIST PROVIDED BY THE UNITED STATES IN ACCORDANCE WITH ARTICLE 1 B., IN WHICH THE AGENCY WISHES TO APPLY SAFEGUARDS, IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, ON ALL SOURCE OR SPECIAL FISSIONABLE MATERIAL;

C. IN IDENTIFYING FACILITIES AND IN APPLYING SAFEGUARDS THEREAFTER ON SOURCE OR SPECIAL FISSIONABLE MATERIAL IN SUCH FACILITIES, THE AGENCY SHALL AVOID DISCRIMINATORY TREATMENT AS BETWEEN UNITED STATES COMMERCIAL FIRMS SIMILARLY SITUATED.

ARTICLE 3

A. THE UNITED STATES AND THE AGENCY SHALL COOPERATE TO FACILITATE THE IMPLEMENTATION OF THE SAFEGUARDS PROVIDED FOR IN THIS AGREEMENT.

B. THE SOURCE OR SPECIAL FISSIONABLE MATERIAL SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT SHALL BE THAT MATERIAL IN THOSE FACILITIES WHICH SHALL HAVE BEEN IDENTIFIED BY THE AGENCY AT ANY GIVEN TIME PURSUANT TO ARTICLE 2 B.

C. THE SAFEGUARDS TO BE APPLIED BY THE AGENCY UNDER THIS AGREEMENT ON SOURCE OR SPECIAL FISSIONABLE MATERIAL IN FACILITIES IN THE UNITED STATES SHALL BE IMPLEMENTED BY PROCEDURES IDENTICAL TO THOSE FOLLOWED IN APPLYING ITS SAFEGUARDS ON SIMILAR MATERIAL IN SIMILAR FACILITIES IN NON-NUCLEAR WEAPON STATES UNDER AGREEMENTS PURSUANT TO PARAGRAPH 1 OF ARTICLE III OF THE TREATY. UNQUOTE.
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